

IN THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH, COURT – III

C.P.(IB)-553(MB)/C-III/2022

(Under Section 94 of the Insolvency and Bankruptcy Code, 2016 read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rule 2019.)

In the matter of

Shree Mohan Nandkishore Gupta

Residing at: 8/9, Sanjay Co-operative Housing Society, Somnath Mahadev Road, Athwalines, Surat- 395007.

.....**Personal Guarantor/Petitioner**

Order Pronounced on: 26.04.2024

CORAM:

**SHRI CHARANJEET SINGH GULATI
HON'BLE MEMBER (T)**

**SMT LAKSHMI GURUNG
HON'BLE MEMBER (J)**

Appearances:

For the Petitioner/Personal Guarantor : Adv. Shavez Mukri,
Adv. Vaibhav Kamble
i/b. A&G Legal Associates LLP

ORDER

Per: - Smt. Lakshmi Gurung (Judicial Member).

1. This Petition has been filed by Shri Mohan Nandkishore Gupta (**"Petitioner/ Personal Guarantor"**) under section **94** of the Insolvency and Bankruptcy Code, 2016 (**"the Code"**) read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate

Debtors) Rules, 2019 (“**IBBI Rules**”) seeking to initiate Insolvency Resolution Process against himself.

2. M/s. Gupta Synthetics Pvt. Ltd. (“**Corporate Debtor**”) availed a loan of Rs. 54.66 Crores from a consortium of Banks being Oriental Bank of Commerce, Bank of Baroda and ING Vyasa Bank. The ING Vyasa Bank merged with Kotak Mahindra Bank and Oriental Bank of Commerce had assigned its debts to the Edelweiss Asset Reconstruction Company Ltd.
3. The loan agreement dated 17.2.2004 was executed between Bank of Baroda, Oriental Bank of Commerce and ING Vyasa Bank Ltd. and the applicant for the said amount.
4. On 26.03.2008, the Petitioner furnished a personal guarantee in favour of the consortium of banks. Subsequently, due to failure in meeting its repayment obligations, the Financial Creditor issued Notice under Section 13(2) of SARFAESI Act, 2002 on 02.12.2014 to clear the entire outstanding dues held in the name of the Corporate Debtor.
5. Despite extending all kinds of support and opportunity to regularize the accounts, the Corporate Debtor, as well as Personal Guarantor, have failed in all respects to repay the outstanding dues including interest. Further, an application was filed before this Tribunal for initiating corporate insolvency resolution process against the Corporate Debtor and same was admitted by this Tribunal vide order dated 17.09.2019.
6. In such circumstances, the Petitioner filed the present application u/s 94 of the Code for initiating Insolvency Resolution Process against himself.
7. The Petition for initiating insolvency resolution process against Personal Guarantor to the Corporate Debtor is complete in all respect. We accordingly, appoint **Mr. Pramod Dattaram Rasam**, having Reg. No:

IBBI/IPA-001/IP-P-00722/2017-2018/11259,

Email:

pdrasam@gmail.com as Resolution Professional (“RP”) in the matter.

8. The fee payable to Resolution Professional (RP) shall be in accordance with the Insolvency and Bankruptcy Board of India (IBBI) Regulations/Circulars/ Directions issued in this regard.
9. This Bench also directs for an advance payment of Rs.1,00,000/- (Rupees One Lakh only) to be paid by the Applicant to the Resolution Professional (RP) immediately to initiate the process which shall be adjusted towards the fee and expenses payable to the Resolution Professional (RP).
10. The Resolution Professional is directed to examine the application as set out in Section 97(6) of IBC, 2016 who after examining, shall submit his report as provided under Section 99(1) of IBC, 2016, **within 10 days**.
11. Further, the Registry is hereby directed to communicate this order to the Petitioner and to RP immediately. The Registry is further directed to send a copy of this order to the Insolvency and Bankruptcy Board of India for their record. The Petitioner is also directed to forthwith communicate this order to the Resolution Professional.
12. List the matter for report of the RP on **03.06.2024**.

Sd/-

**CHARANJEET SINGH GULATI
(MEMBER TECHNICAL)**

Sd/-

**LAKSHMI GURUNG
(MEMBER JUDICIAL)**

Arpan, LRA